



Appeal Decision

Site visit made on 31 August 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/A1910/W/22/3292464

Land adjacent to Finch Cottage, Tenements Farm Lane, Tower Hill, Chipperfield WD4 9LN.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Johnson against the decision of Dacorum Borough Council.
 - The application Ref 21/04277/FUL, dated 10 November 2021, was refused by notice dated 18 January 2022.
 - The development proposed is demolition of existing outbuilding and construction of new dwelling, with new access and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 14 March 2022 Natural England issued a letter to Central Bedfordshire Council advising of emerging evidence which identifies recreational pressure on the Chilterns Beechwood Special Area of Conservation (SAC). A 12.6km Zone of Influence has been identified, which includes the appeal site. Natural England has indicated that all new residential development within the Zone of Influence will require Habitat Regulations Assessment. The proposed development would lead to a net increase in a dwelling and there would be resultant recreational pressure on the SAC and as such, likely significant effects on this designated habitat. However, given that I am dismissing this appeal on other grounds it is not necessary to consider this matter further, nor undertake an Appropriate Assessment.

Main Issues

3. The main issues are:
 1. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 2. The effect on the openness and purposes of the Green Belt.
 3. Whether the proposal would affect the setting and significance of the Chipperfield Conservation Area (CA) and other designated heritage assets.
 4. Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site lies to the north of Tenements Farm Lane and comprises an existing building and land associated with this. The appeal site is also located within the Green Belt. Policy CS5 of the Council's Core Strategy, adopted 25 September 2013 (CS) states that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements.
5. In relation to development in the Green Belt, Paragraph 147 of the Framework is clear that, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. However, this goes on to set out certain exceptions. The appellant's submissions highlight the following exceptions in support of the proposal:
d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; e) limited infilling in villages; and, g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development. The proposal only needs to comply with one of these exceptions to not be inappropriate development in the Green Belt.
7. Paragraph 149 of the Framework post-dates the Policy CS5 of the CS and therefore, I afford this greater weight.
8. In respect of exception (d) of Paragraph 149 of the Framework, the main parties agree that the appeal building and site have some form of residential use and I have not been provided with any clear reason to dispute this.
9. The size 'test' is based on a comparison between the building to be replaced and the proposed building. This does not include a comparison of the proposed building with other nearby buildings.
10. The existing building is in three sections. The central larger section is single storey and incorporates a pitched roof and the elements either side of this incorporate mono-pitch roofs of a lower height. As such, the extant building is of a low-lying design and this minimises its volume and massing.
11. Whilst the new dwelling would result in a marginal reduction in footprint relative to the extant building, the new dwelling would incorporate two floors and overall would be appreciably taller than the one to be replaced. This, combined with its overall footprint would result in a building with an appreciably greater volume and massing than the extant building. Therefore, in my view, the proposed building would be materially larger than the one being replaced. As such, the proposal does not meet the exception under Paragraph 149 (d) of the Framework.
12. With regard to Paragraph 149 (e) of the Framework. This requires a planning judgement as to: (1) whether the proposal represents limited infilling and, if so (2) whether the appeal site is within a village.

13. The proposal is for a single dwelling which would be located within a continuous built-up frontage within the settlement of Tower Hill. Therefore, the proposal falls within the definition of 'limited infilling'.
14. However, I also need to be satisfied that this settlement is a 'village'. This has consequences in terms of whether the scheme accords with Framework paragraph 149 (e). I appreciate this is subjective and no definition is provided in the Framework and I have not been referred to any other definition.
15. Rather, it is for the decision maker to decide whether, as a matter of fact and degree on the ground, the site is in a village.
16. On the ground, Tower Hill, is separated by the built-up extent of the nearby village of Chipperfield by large fields. Tower Hill is also an appreciably smaller settlement in terms of the area it covers, numbers of dwellings, relative to Chipperfield and incorporates very limited services and facilities. Therefore, its modest scale and services and facilities, lead me to conclude that Tower Hill is not a village. As such, the proposal does not accord with the exception under paragraph 149 (e) of the Framework.
17. Turning to the exception under paragraph 149 (g) of the Framework, the proposal would constitute the complete redevelopment of land, the appellant also asserts that this is Previously Developed Land (PDL).
18. The definition of PDL in the Framework includes land which is or was occupied by a permanent structure, including the curtilage of the developed land. However, land in built up areas such as residential gardens, are excluded.
19. Because the appeal site is identified as garden land and is in a built-up area (within the settlement of Tower Hill) it does not fall within the definition of PDL.
20. In any event, even if the site did constitute PDL, for the reasons given below, the proposal would have a greater impact on the openness of the Green Belt. Accordingly, the proposal does not meet the exception under paragraph 149 (g) of the Framework.
21. For the above reasons and because the proposal does not fall within any of the other exceptions under paragraph 149 of the Framework, the proposal would be inappropriate development.

Openness and purposes of Green Belt

22. Paragraph 137 of the Framework, states that the essential characteristics of Green Belts are their openness and their permanence. The extent to which a proposal may cause harm to openness, might depend on factors such as its spatial and/or visual implications. This is a matter of planning judgement.
23. I have found that the proposed dwelling would be materially larger than the building it would replace. As such, its increased scale would reduce the visual openness of the Green Belt. This would be particularly apparent in views from along Tenements Farm Lane. Therefore, the proposal would result in a greater impact and harm to the openness of the Green Belt.
24. However, because the appeal site comprises an existing plot incorporating a building within a settlement, the proposal would not conflict with any of the purposes of the Green Belt as set out under paragraph 138 of the Framework.

Setting and significance of the Chipperfield CA

25. Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 places a statutory duty on me to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest which it possesses, as well as to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
26. The appeal site lies outside of, but adjacent to, the Chipperfield CA and is also adjacent to listed buildings. These include, 1 Tower Hill and Mulberry Cottage, which are dwellings and The Paddock public house.
27. The significance of the two dwellings in heritage terms appears to lie in their architecture, design and detailing. The historic significance of the pub is due to its design, appearance and materiality, and its historic use as a public house.
28. Furthermore, Mulberry Cottage incorporates a substantial outbuilding at the rear of its plot which to some extent would screen the proposed dwelling from Tower Hill. Consequently, the new dwelling would only be visible in glimpsed views when travelling along Tower Hill and would not be unduly prominent relative to the nearby listed buildings. Therefore, having regard to the significance of the those listed buildings, the proposal would not adversely affect their setting nor would it impact upon their significance.
29. Views of the new dwelling would be available from the Chipperfield CA. Despite having found harm to the openness of the Green Belt, the proposal reflects the layout, height and use of materials used locally, including properties within the Chipperfield CA. Furthermore, the built form of the new dwelling would be complemented by the proposed landscaping scheme.
30. As such, the proposal would not harm the setting and significance of any nearby designated heritage assets and accords with Policy CS12 which seeks to secure high quality design and Policy CS27 of the CS which requires that the integrity, setting and distinctiveness of designated and undesignated heritage assets is protected, conserved and if appropriate enhanced. Accordingly, the proposal is consistent with the aims of the Framework for conserving and enhancing the historic environment.

Other Considerations

31. Paragraph 147 of the Framework is clear that, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The appellant's case is largely predicated on the proposal not being inappropriate development. Therefore, no specific very special circumstances have been identified.
32. Nevertheless, the proposal would deliver a new dwelling. This would make an important but modest contribution towards the local housing need and aligns with the objective of significantly boosting the supply of homes, as set out in the Framework. However, the social, economic and environmental benefits arising from a single dwelling would still be modest and therefore only attract limited weight.

Other Matters

33. Whilst Policy CS6 of the CS, supports some development within a number of specified small villages, this does not include the settlement of Tower Hill. Therefore, this Policy does not lend support to the proposal.

Planning Balance and Conclusion

34. I have found that proposal would not harm any nearby designated heritage assets. Nevertheless, the proposal amounts to inappropriate development in the Green Belt, which would by definition be harmful to it. There would also be some harm to the openness of the Green Belt.
35. The Framework is clear that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
36. Whilst I have given weight to the factors which are in the schemes favour, they do not clearly outweigh the totality of harm the scheme would cause. Consequently, the very special circumstances to justify the inappropriate development do not exist. Therefore, the proposal is contrary to the aims of Policy CS5 of the CS and the Green Belt provisions of the Framework. As such, the proposal conflicts with the development plan and the Framework.
37. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR